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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

EUNICE CHO,

Plaintiff and Appellant,

v.

COUNTY OF SANTA CLARA,

Defendant and Respondent.

H032766

(Santa Clara County

Super. Ct. No. CV798595)

Eunice Cho appeals from a judgment on a cross-complaint brought by Santa Clara Valley Medical Center (SCVMC) for breach of contract and related claims arising from medical expenses incurred by her husband, Peter Cho, while he was hospitalized at SCVMC. Appellant asserts error in assigning liability to her for those expenses. We find partial merit in her position and must therefore reverse the judgment.

*Background*

Peter Cho received treatment at SCVMC from August 16 to 23 and again from August 30, 2000 to his death on September 21, 2000. When he was first admitted to the emergency department, appellant signed a "Conditions of Admission" form, which included the following "Financial Agreement": "The undersigned agrees to pay for services rendered, in accordance with the regular rates established for such services at Santa Clara Valley Medical Center in accordance with the regular rates and terms of this

hospital." Shortly after that, with the telephone assistance of someone speaking Korean, she completed an application for the hospital's "Ability to Pay Determination Program."

When discharged on August 23, Peter Cho had incurred a hospital bill of \$48,916.43. On August 25, 2000, while at the hospital arranging for surgery and follow-up care, Peter Cho signed a second Conditions of Admission agreement. At trial, however, the court ruled this document inadmissible for lack of testimony that Peter Cho's signature was authentic. For Cho's second stay, including the surgery, the charges amounted to \$532,365.74. He died at the hospital on September 21, 2000.

In May 2001 Peter Cho's two minor sons and appellant filed an action for wrongful death and medical malpractice against SCVMC and two physicians, alleging that Cho had received inadequate medical care. Pursuant to the parties' stipulation, SCVMC filed a cross-complaint in August 2002. The cross-complaint contained four causes of action: reimbursement of medical expenses under Welfare and Institutions Code section 17300; breach of contract; fraud; and conspiracy to commit fraud. SCVMC dismissed the fraud and conspiracy causes of action before trial, and the remaining causes of action in the cross-complaint were bifurcated from the plaintiffs' claims.

The complaint was tried by a jury in April 2005. The jury found the defendants not to have been negligent, and judgment was accordingly entered for them on May 5, 2005. The cross-complaint was tried by the court in July 2005. Appellant argued that neither she nor her husband had known English well enough to understand the "Conditions of Admission" form. Neither of them understood that it obligated them to pay such high expenses. Appellant asserted that she had signed the form at the instruction of a family friend, Mr. Kim, who spoke English and was present when Cho was admitted.

At trial appellant testified that while she was waiting near the emergency room on August 16, 2000, Kim called her over to where a hospital employee was standing. The employee handed her a paper, which she signed in the belief that it was necessary in

order for her husband to receive treatment. No one explained the contents of the document, and she did not realize that it contained a "Financial Agreement" in paragraph four. According to appellant, if she had known of that obligation to pay for the medical care her husband was receiving, she would not have signed the form.

Thus, appellant maintained that the contract was unenforceable for lack of mutuality and consent. Relying on that premise, appellant further contended that neither she nor Peter Cho had incurred any debt for which the community estate could be liable under Family Code section 910, subdivision (a).

On September 14, 2005, the court found appellant liable for her husband's hospital expenses (1) under the "Conditions of Admission" contract she had signed, (2) under the same contract signed on August 25, 2000 by Peter Cho, (3) under Family Code section 910, and (4) under Welfare and Institutions Code section 17300. After a prove-up hearing in October 2007, the court found that appellant owed SCVMC \$586,796.67, the amount the hospital had requested.

### *Discussion*

#### *1. Binding Effect of Admissions Contract*

Appellant first contends that the "Conditions of Admission" contract she signed on August 16, 2000 was not enforceable because she did not understand it and therefore could not have agreed to the payment provision. According to appellant, she signed the document under the mistaken belief that it was necessary for her husband to be treated at the hospital. Although her argument below was premised on unilateral mistake, on appeal she modifies her position to assert excusable neglect: "Given Appellant's inability to speak or read English, the exigency of the circumstance, the fact no one interpreted or explained the document for her, that she believed signing was necessary for hospital admission, that she had no idea the document included her obligation to pay all her husband's medical expenses, and that the SCVMC representative knew all of the

foregoing when he presented the document to Appellant, her signing the document was obviously due to excusable neglect, and the document cannot be enforced against her."<sup>1</sup>

Appellant's assertion that her inability to read English precludes a finding of mutual assent raises both factual and legal issues. The extent of her understanding when she signed the document and the hospital representative's awareness of her limitations were questions of fact subject to substantial evidence review on appeal to the extent that they were contested.<sup>2</sup> (*Ermoian v. Desert Hosp.* (2007) 152 Cal.App.4th 475, 500-501.) The trial court's ruling, however, indicated that even if *in fact* she did not comprehend the financial agreement contained in the document, she was not relieved of her contractual duty to pay the medical charges. This was a legal determination which we review independently. (*Ghirardo v. Antonioli* (1994) 8 Cal.4th 791, 800.)

Although appellant's argument below was based on lack of consent due to mistake, the trial court's analysis of that defense applies equally to excusable neglect, the defense she asserts on appeal. Excusable neglect is an exception to the general principle that "one who signs an instrument may not avoid the impact of its terms on the ground that

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<sup>1</sup> Appellant has not asserted that the "Conditions of Admission" was an adhesion contract. (See *Tunkl v. Regents of University of Cal.* (1963) 60 Cal.2d 92, 102.) Even if she had, such a contract remains enforceable if the disputed term was within the reasonable expectations of an ordinary person and were not oppressive or unconscionable. (*Wheeler v. St. Joseph Hospital* (1976) 63 Cal.App.3d 345, 357.) Payment for medical care is an obligation that a patient or the patient's representative should legitimately expect when the patient appears for treatment at a hospital. Appellant herself admitted that she expected to pay her husband's medical bill.

<sup>2</sup> SCVMC points to appellant's testimony on cross-examination that when Peter Cho was admitted to the hospital for the surgery, she thought she would pay the medical bill. When defense counsel asked whether she had *agreed* to pay the medical bill for both the mid-August hospitalization and the late-August surgery, appellant answered "Yes." On redirect, however, appellant testified that she did not express any such agreement to anyone associated with the hospital.

he failed to read the instrument before signing it.' " (*Stewart v. Preston Pipeline Inc.* (2005) 134 Cal.App.4th 1565, 1588.)

In its ruling the trial court cited *Randas v. YMCA of Metropolitan Los Angeles* (1993) 17 Cal.App.4th 158. In that case the plaintiff was injured after her swimming class when she fell on the wet tile next to the pool. Affirming summary judgment in the YMCA's favor, the appellate court held that the release was "neither unclear nor ambiguous." (*Id.* at p. 163.) Although the plaintiff was not literate in English, she did not claim that the defendant had engaged in fraud or overreaching, or that there was reason to suspect that she was unable to read the release. The court cited the rule that one who cannot read a contract should have someone read or explain it to him or her. (*Id.* at p. 163; see also *Madden v. Kaiser Foundation Hospitals* (1976) 17 Cal.3d 699, 710 [noting general rule that "one who assents to a contract is bound by its provisions and cannot complain of unfamiliarity with the language of the instrument"].) Accordingly, the plaintiff was still bound by its terms.

In this case, it is undisputed that appellant could not understand the content of the Conditions of Admission because she was not literate in English. It is also undisputed that she did not ask for a translation or explanation of the terms of the contract, even though her friend Mr. Kim, who spoke both English and Korean, was present. She signed the contract "without any thinking" because her husband was being admitted and she believed it was her responsibility to sign it.

Appellant argues that the SCVMC representative knew or should have known that she did not know what she was signing. Rather than point to testimony, however, appellant asserts that the representative's knowledge was an "obvious fact" and that it is "inconceivable" that she would have agreed to pay a medical bill as large as this when her

ability to pay was so low.<sup>3</sup> The trial court implicitly found insufficient facts to support appellant's position, however. Its conclusion is supported by substantial evidence. Mr. Kim, who spoke to the hospital representative in English and then explained Peter Cho's status to appellant in Korean, was present when the document was presented to her. Mr. Kim's presence provided a basis for the court to infer that Mr. Kim was available to translate if appellant had requested it. Appellant did not ask for help in understanding the document.

Appellant insists that her assertion of "obvious" excusable neglect is supported by SCVMC's own point that soon after she signed the Conditions of Admission, a Korean interpreter helped her complete the Ability to Pay Determination application. That fact does not compel the inference that in the *earlier* encounter the hospital representative knew that appellant needed help beyond what she could apparently obtain from Mr. Kim. Although appellant could not remember whether Mr. Kim said anything to her about the document, the hospital representative could have believed that he was telling her what it said when he spoke to her, or at least that he could provide translation if she needed it. Furthermore, it was not established that hospital personnel initiated the subsequent telephone participation of the translator; the trial court could have found that appellant herself requested assistance in order to be relieved of the anticipated financial burden. At trial appellant admitted that she had sought help from the interpreter for the application in order "to have somebody pay for [the] hospital bills."

We thus conclude that substantial evidence supports the trial court's rejection of appellant's excuse for relief from the binding effect of the Conditions of Admission

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<sup>3</sup> In completing the Ability to Pay Determination application appellant stated that Peter Cho did not work but she did, for \$20 an hour. She also declared assets of \$2,500 in a checking account. At the prove-up hearing, a supervisor in the county revenue collections office testified that during a search for assets her office discovered "a number of" (she thought three) properties owned by the Chos.

contract. Appellant understood that she would be obligated to pay for her husband's treatment in the week following the first admission; indeed, she testified that she assumed she would be responsible and actively applied for financial assistance shortly after he was admitted. If appellant needed a complete explanation of the financial agreement provision of the document, it was incumbent on her to request help in understanding it.

## *2. Limitations on Liability*

Appellant contends that even if she was contractually obligated to pay for the care received by Peter Cho following his first admission, from August 16 to August 23, 2000, she did not agree to pay for the subsequent period beginning August 30, which covered the surgery and post-surgical hospitalization until Cho's death. This period was the subject of Cho's own "Conditions of Admission," which the trial court cited as an additional basis for contractual liability. We will disregard that rationale; as appellant points out, this document was excluded at trial because Peter Cho's signature had not been authenticated.<sup>4</sup>

Nevertheless, the trial court ruled that appellant herself was liable for the entire hospital bill under Family Code section 910, subdivision (a), and Welfare and Institutions Code section 17300. We will therefore consider the applicability of those statutes in determining the extent of appellant's liability for the expenses incurred by her husband during the second hospitalization period.

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<sup>4</sup> If SCVMC had pursued a cause of action based on breach of an implied contract, there would have been no question that Peter Cho had a duty to pay for the services he received from SCVMC. An agreement to pay for medical services is implied when the patient is admitted for treatment. (*Reichle v. Hazie* (1937) 22 Cal.App.2d 543, 547.) The court correctly expressed this principle at trial when it suggested that the hospital was entitled to reimbursement even if the patient did not sign any contract. This theory, however, was not pleaded in the cross-complaint. More significantly, while it would dispose of appellant's contention that she owed nothing because no valid contract existed, a rationale based on implied contract would not resolve the central dispute: what property is subject to collection for the services Peter Cho received.

Family Code section 910, subdivision (a) (hereafter "section 910(a)"), states: "Except as otherwise expressly provided by statute, the community estate is liable for a debt incurred by either spouse before or during marriage, regardless of which spouse has the management and control of the property and regardless of whether one or both spouses are parties to the debt or to a judgment for the debt." Addressing section 910(a) in the lower court, appellant argued that there was no "debt" for the period following the second hospital admission because the Conditions of Admission purportedly signed by Peter Cho was excluded from evidence. However, the existence of a debt within the meaning of section 910(a) does not require a contract; it carries the meaning of "an obligation incurred by a married person before or during marriage, whether based on contract, tort, or otherwise." (Fam. Code, § 902.) "In our view, an obligation imposed by statute is a 'debt' within the meaning of section 910." (*In re Marriage of Leni* (2006) 144 Cal.App.4th 1087, 1098.) Furthermore, a debt was created upon Peter Cho's admission whether he signed an agreement or not. (See *Reichle v. Hazie, supra*, 22 Cal.App.2d at p. 547; see also Health & Saf. Code, § 1473.)

Tacitly acknowledging that section 910(a) made the community estate liable for the hospital charges, appellant refines her position on appeal to argue that the extent of her liability is limited by the statute to the value of the community estate at the time of Peter Cho's death. She maintains that because the community property was limited to \$5,800, her liability could not exceed that amount.

SCVMC responds by noting that Family Code section 914 makes a married person liable for the debt of his or her spouse when that debt is incurred for the spouse's "necessaries of life." (Fam. Code, § 914, subd. (a)(1).)<sup>5</sup> The person's separate property

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<sup>5</sup> Family Code section 914 is an exception to section 913, which declares the nonliability of separate property for payment of a spouse's debts. Section 914 provides, in relevant part: "(a) Notwithstanding Section 913, a married person is personally liable for the following debts incurred by the person's spouse during marriage: [¶] (1) A debt incurred



may be used to satisfy that debt. (Fam. Code, § 914, subd. (b)(1).) Family Code section 914, however, was not pleaded in the cross-complaint or cited during the liability portion of the trial. Although we may decide an important public issue based on a new theory when it presents a purely legal question based on undisputed facts (see *Cedars-Sinai Medical Center v. Superior Court* (1998) 18 Cal.4th 1, 6 [court will address new point if it "is an issue of law that does not turn on the facts of this case, it is a significant issue of widespread importance, and it is in the public interest to decide the issue at this time"]; *Sea & Sage Audubon Soc'y v. Planning Commission*, 34 Cal.3d 412, 417), that is not the case here. Not only does the application of Family Code section 914 to this case raise no important issues of broad public interest, but there was no factfinding by the court or even presentation of evidence and argument directed at establishing that all of the hospital charges were attributable to Peter Cho's "necessaries of life."<sup>6</sup> Consequently, appellant had no opportunity to dispute any portion of the hospital bill as outside the scope of Family Code section 914.<sup>7</sup> As that provision does not offer a permissible ground for upholding the judgment, we are compelled to conclude that the community estate, but not appellant's separate property, is subject to collection in this case.<sup>8</sup>

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for necessaries of life of the person's spouse while the spouses are living together. . . . [¶] (b) The separate property of a married person may be applied to the satisfaction of a debt for which the person is personally liable pursuant to this section."

<sup>6</sup> SCVMC did cite Family Code section 914 in its reply to appellant's post-trial brief in November 2007, but that occurred *after* the prove-up hearing, more than two years after trial on the liability issue. At the prove-up hearing itself the trial court did not recognize issues other than the amount of the bill, though it reluctantly allowed testimony regarding the Chos' eligibility for the Ability to Pay Determination program and their ownership of real property.

<sup>7</sup> It is conceivable, for example, that appellant might have challenged those charges that were listed for dates of service after Peter Cho's death.

<sup>8</sup> Appellant further argues that SCVMC's untimely citation of Family Code section 914 as a ground for liability has deprived her of an opportunity to proffer a viable defense based on the statute of limitations, which is set forth in subdivision (c) of Family Code section

We cannot, however, accept appellant's representation of the value of the community estate. Although appellant signed a declaration that the community property amounted to \$5,300,<sup>9</sup> she did so in October 2007, after trial on the liability issue and before the prove-up hearing, which was confined to the amount she owed. The trial court must be given an opportunity to ascertain the extent of the marital assets and thus determine the community liability for the hospitalization period following the second admission.

SCVMC maintains, however, that the trial court properly relied on Welfare and Institutions Code section 17300 as an alternative ground for the judgment. That provision states: "All aid rendered by the county under this part shall be a charge against the responsible relative or relatives of the recipient thereof, and the county rendering aid shall be entitled to reimbursement therefor. [¶] The board of supervisors of the county rendering aid shall determine if the responsible relative or relatives have financial ability to support or contribute to the support of the recipient and were pecuniarily able to support or contribute to the support of the recipient during the time aid was rendered. If in the opinion of the board of supervisors pecuniary ability existed when the aid was given, and exists when the matter comes before the board of supervisors, the board shall request the district attorney or other civil legal officer of the county granting aid to proceed against such responsible relative or relatives. . . ."

According to SCVMC, appellant's separate property was not shielded from liability because this statute made her a "responsible relative" who was obligated to reimburse the county for the medical "aid" her husband had received at the hospital.

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914. We need not address this argument, as the applicability of this statutory defense may turn on facts that are not before us.

<sup>9</sup> Appellant's declaration listed the assets held by the parties as community property, worth \$5,300. Both parties denote the value of the Chos' community property as \$5,800, which is inaccurate if the declaration is to be credited.

Appellant advances a procedural defense: Welfare and Institutions Code section 17300 should not have been applied because there was no determination by the county board of supervisors that she had the ability to pay for her husband's treatment.

In response, SCVMC asserts that the board delegated its statutory authority to make individual determinations of "pecuniary ability" to the "administration of the Ability to Pay Determination program." As appellant points out, however, no evidence was offered regarding a delegation of the responsibility to determine her ability to pay. Even assuming SCVMC correctly infers such delegation from the existence of the Ability to Pay Determination Program used by the hospital, we nonetheless cannot find evidence that the requisite determination was made.<sup>10</sup> Cheryl Aviles, a "supervising patient services clerk" for SCVMC, testified at the prove-up hearing regarding the hospital's billing procedures, and she described the Ability to Pay Determination program for uninsured medically indigent patients. The hospital's program, she explained, could not take effect until the patient was first denied coverage by Medi-Cal. Aviles stated that the hospital was unable to determine whether the Chos qualified for its program because they apparently had not completed their application for Medi-Cal benefits. Consequently, SCVMC had not made a determination of the Chos' ability to pay for the hospital services.

SCVMC alternatively suggests that the requisite determination may be inferred from the board's action in requesting county counsel to file suit. (See *Santa Barbara County v. Monical* (1970) 10 Cal.App.3d 249, 253 [board of supervisors' resolution authorizing and directing the County Counsel to file suit necessarily implies opinion that named person is responsible relative with ability to pay].) That request, however, does not appear in the record. Nor is there a judicial determination based on evidence

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<sup>10</sup> The record also does not compel the inference that the board impliedly authorized suit against appellant, thereby satisfying the statutory predicate.

presented below that appellant had the requisite ability to pay. SCVMC does not suggest otherwise. (See *Santa Barbara County v. Monical*, *supra*, 10 Cal.App.3d at p. 252 [whether person is "responsible relative" and extent of liability for reimbursement are for the court to determine].) Therefore, in these circumstances Welfare and Institutions Code section 17300 was unavailable as a basis for imposing personal liability on appellant.

We thus conclude that appellant is contractually obligated to pay the expenses Peter Cho incurred during the first admission period, pursuant to the "Financial Agreement" she signed at the hospital. With respect to the second hospital stay, the Chos' community property may be assessed for payment of the outstanding bill. On remand, the trial court will have an opportunity to determine the value of the community estate and proceed to assign section 910(a) liability accordingly.

### *3. Admissibility of Hospital Charges*

Finally, appellant challenges the admission of the entire hospital bill because SCVMC failed to establish its trustworthiness, as required by Evidence Code section 1271, subdivision (d).<sup>11</sup> This provision, part of the business records exception to the hearsay rule, sets forth one of the prerequisite conditions for admitting a business record: "The sources of information and method and time of preparation were such as to indicate its trustworthiness." SCVMC responds that section 1552 makes the computer-generated bill admissible notwithstanding the hearsay rule. Whether or not section 1552 is applicable *and sufficient* to establish the accuracy of the charges, the bill was properly admitted under section 1271, the statute on which SCVMC focused at the prove-up hearing. "A trial court has broad discretion in determining whether a sufficient foundation has been laid to qualify evidence as a business record. On appeal, we will reverse a trial court's ruling on such a foundational question only if the court clearly abused its discretion." (*People v. Hovarter* (2008) 44 Cal.4th 983, 1011; *Aguimatang v.*

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<sup>11</sup> All further statutory references are to the Evidence Code.

*California State Lottery* (1991) 234 Cal.App.3d 769, 797.) We have reviewed the evidence submitted to the court, including the inpatient bills and the testimony of the supervising clerk, Cheryl Aviles, but we find no abuse of discretion on this record.

*Disposition*

The judgment is reversed. The matter is remanded to permit the trial court to determine the amount of community property held by the Chos during the period covered by Peter Cho's second hospital stay, August 30-September 21, 2000. The court shall then enter a new judgment imposing liability for the hospital charges during that period to the extent of the community assets, along with the full amount the court previously found appellant personally owes for the August 16-23, 2000 hospitalization period. The parties shall bear their own costs on appeal.

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ELIA, J.

WE CONCUR:

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RUSHING, P. J.

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PREMO, J.